



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 12, PARAGRAPH 1, OF THE OPTIONAL PROTOCOL
TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE
SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD
PORNOGRAPHY**

Initial reports of States parties due in 2006

SUDAN*

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[3 March 2006]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 7	3
A. Legal age of criminal responsibility	8 - 14	5
B. Prohibition of the sale of children, child prostitution and child pornography	15 - 65	6
C. Criminal procedures	66 - 74	15
D. Protecting the rights of child victims	75 - 82	16
E. Sale of children, child pornography and trafficking in human organs	83 - 87	17
F. Projects and programmes to protect children from violence	88 - 104	18
G. International assistance and cooperation	105 - 115	23

National Council for Child Welfare-Secretariat

**REPORT OF THE SUDAN ON THE OPTIONAL PROTOCOL ON THE SALE
OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY**

Introduction

1. A technical committee was set up to prepare the Sudan's two reports on the Optional Protocols to the Convention on the Rights of the Child under the chairmanship of the Secretary-General of the National Council for Child Welfare and with members drawn from the following bodies:
 - The secretariat of the National Council for Child Welfare;
 - The Ministry of Defence;
 - The Ministry of the Interior;
 - The Ministry of Foreign Affairs;
 - The Ministry of Justice;
 - The Ministry of Labour;
 - The Ministry of Social Welfare and Women's and Children's Affairs;
 - The Ministry of Information and Communications;
 - The Human Rights Advisory Council;
 - UNICEF; and
 - The Sabah Association for Child Welfare and Development.
2. The committee was provided with, and inspired by, the guidelines on initial reports required from States parties under article 12 (1), of the Optional Protocol on the sale of children, child prostitution and child pornography.
3. The committee held several meetings to discuss the guidelines and the information to be gathered for preparation of this report. Each agency prepared the information required of it for inclusion in this report.
4. The Sudan ratified the optional protocols to the Convention on the Rights of the Child, without reservations, on 11 September 2004, thereby making them part of Sudanese law. The competent judicial bodies and other relevant instances were apprized of the content of both protocols.
5. The National Council for Child Welfare, in accordance with its legal powers and functions, coordinates, follows up and advises on children's issues, following up on and monitoring the implementation of the Convention on the Rights of the Child and the optional protocols and raising public awareness of these issues.

6. The Council has organized a number of awareness-raising activities for various sectors of society on the optional protocols, as listed in the table below.

Activity	Date and place	Target groups
1. Brainstorming session on proposed amendments to the 2004 Children's Act to include additional provisions relating to the protocols	March 2005, Khartoum	Jurists - civil society organizations working on children's issues - State institutions operating in the children's domain
2. Socio-psychological field survey on child camel jockeys returning from Qatar	October 2005, Kassala, Nile River	Child camel jockeys returning from Qatar
3. Social awareness-raising for Rashayidah tribes on dangers of using children in camel racing	Kassala	Rashayidah tribes in Kassala
4. Workshop with government agencies on camel racing	Kassala, Khartoum	Government agencies operating in children's domain - voluntary organizations - state community leaders
5. Field survey on child labour with focus on child jockeys	Kassala, Khartoum	Child workers in Kassala and Khartoum
6. First national symposium on protecting children against all forms of violence	May 2005, Khartoum	Government and private agencies - individuals working on children's issues - and civil society organizations
7. Workshop of secretaries-general of state children's councils on child protection	April 2005, Khartoum	Secretaries-general of state children's councils
8. Workshop on school violence for teachers in the state of Sinar	December 2005, Sanjah	Primary schoolteachers in Sinar - political, legislative, community and executive leaders
9. Workshop to review and compare protection legislation in the Sudan with the two protocols	November 2005, Khartoum December 2005, Kaduqli September 2005, Niyala	Government and private agencies involved in children's issues and judicial and legislative bodies
10. Workshop on the Convention on the Rights of the Child and the optional protocols	March 2004, Kassala 2004, Qadarif June 2004, Kusti July 2004, Madani October 2004, Port Sudan	Relevant government and private agencies working on children's issues and community and executive leaders
11. Workshop in Kassala state to define roles in reintegrating child camel jockeys returning from the Emirates	June 2005, Kassala	Government institutions and private organizations
12. Participation in the formulation of an Arab strategy on the elimination of child labour	October 2004, Cairo	Child welfare personnel
13. Workshop with judges, deputy prosecutors and senior police officers on juvenile justice	November 2005, Khartoum	Judiciary, deputy prosecutors and police officers

7. The legislative steps taken to protect children in accordance with the Protocol are described hereunder.

A. Legal age of criminal responsibility

8. Article 8 of the 1991 Criminal Code defines a child who is of age as a natural person who is mature and enjoys legal capacity. "Mature" means a person of over 15 years of age who has all the physical attributes of maturity. An adult is anyone of 18 years of age, even if he or she does not have all the physical attributes of maturity.

9. Under article 9 of the Code, an immature minor cannot be held responsible for the commission of a crime. However, a court may, at its discretion, impose legally prescribed welfare and reform measures on any minor aged 7 years or over.

10. Article 4 of the 2004 Children's Act defines a child as any boy or girl below 18 years of age who has yet to reach full legal age according to the laws in force. Welfare and reform measures are defined in articles 59 and 60, while article 76 authorizes the courts to impose the following measures:

(a) The court may impose any of the following measures on a child found guilty of delinquency: appropriate forms and methods of moral guidance under the supervision of a specialist;

(b) Delivery into the care of one or both parents, a legal guardian or a person who undertakes to care for the child;

(c) Placement with a children's welfare association or any other welfare agency;

(d) Placement under social supervision or supervision in the local community in which the child lives;

(e) Placement in a reformatory for any period of time that the court deems fit, provided that the child is not kept in the institution after attaining 18 years of age.

11. The court, upon the recommendation of a reformatory or any competent body, may alter or terminate any period of placement that it orders under paragraph (e).

12. From studying these laws, one can see that there is some confusion arising from the absence of a clear definition of the age of criminal responsibility. Under the 1991 Criminal Code, children of over 15 years of age may be held criminally responsible, if they show clear signs of maturity, although the 2004 Children's Act is rather vague about this, according to the above definition of full legal age.

13. In addition, the measures provided for in the Children's Act make no mention of the penalty of flogging. As a result, there is some inconsistency between the 1991 Criminal

Code and the 2004 Children's Act. This can be resolved through the application of the 1974 Interpretation of Laws and General Provisions Act, article 6 (3) and (4) of which read as follows:

(3) The provisions of a law succeeding a previous law shall have precedence to the extent that they eliminate any conflict between the two.

(4) Any special law or special provision on any subject contained in any law shall be taken as an exception to any general law or general provision of any law regulating the said subject.

14. Article 3 of the Children's Act states: "The provisions of this Act shall take precedence over any conflicting provision in any other law in order to serve the child's best interests and to the extent that the conflict is thereby eliminated."

B. Prohibition of the sale of children, child prostitution and child pornography

15. The 2005 Transitional Constitution of the Republic of the Sudan includes:

– Article 27: the Charter of Rights:

- The Charter of Rights is a commitment undertaken by all the people of the Sudan and their governments at all levels to respect and work for the promotion of human rights and the fundamental freedoms guaranteed by the Constitution. It is a cornerstone of social justice, equality and democracy in the Sudan;
- The State protects, promotes, guarantees and implements this instrument;
- All the rights and freedoms included in international human rights instruments ratified by the Republic of the Sudan are an integral part of the Charter; and
- The law regulates the rights and freedoms set out in the Charter, from which there can be no derogation.

– Article 30: slavery and forced labour:

- Slavery and all forms of slave trafficking are prohibited; and
- No one may be forced to work, unless pursuant to a sentence issued by a competent court.

– Article 32: rights of children and women:

- The State provides health care for mothers, children and pregnant women;
- The State protects children's rights as guaranteed in the international and regional treaties to which the Sudan is a party.

- Article 36: death penalty:
 - The death penalty may only be imposed with respect to *qisas* offences (offences for which the penalty is retaliation under Islamic law), *hadd* offences (offences carrying a mandatory sentence under Islamic law) or extremely serious offences as defined by law; and
 - The death penalty may not be imposed on anyone below 18 or over 70 years of age, unless with respect to *qisas* or *hadd* offences.
- Article 48: denial of rights and freedoms:

There can be no derogation from the rights and freedoms recognized in the Charter. The Constitutional Court and other competent tribunals shall safeguard, protect and apply the Charter and the Human Rights Commission shall oversee its implementation.

16. In the 2005 Transitional Constitution of southern Sudan:

- Article 13 deals with the subject of safeguards for the rights and freedoms of citizens in the South;
- Article 19 recognizes the freedom of any adult of marrying age to start a family in accordance with the family laws in force, without being forced into marriage;
- Article 21 defines children's rights as follows:
 - (1) All children are entitled:
 - To life, survival and development;
 - To a name and a nationality;
 - To a family life and parental care or care by a legal guardian;
 - Not to be exploited or abused; not to be pressed into military service; and not to be subjected to dangerous or harmful practices that jeopardize their educational prospects, health or well-being;
 - Not to be subjected to any form of discrimination;
 - Not to be subjected to corporal punishment, cruelty or inhuman treatment at the hands of any individual, including parents and managers of schools and other institutions;
 - Not to be subjected to negative or harmful cultural practices that undermine their health, welfare or dignity;
 - To protection against abduction and trafficking;

- (2) When dealing with children, private institutions, public courts, administrative authorities and legislative bodies shall give primary consideration to the best interests of the child;
- (3) All levels of government in southern Sudan must afford special protection to orphans and abused children, and the adoption process must be carried out in accordance with the law;
- (4) For the purposes of the Constitution, a child is a person below 18 years of age;
- (5) Imposition of the death penalty:
 - The death penalty shall not be imposed on anyone below 18 or over 70 years of age.

Criminal procedures

17. A number of laws have been enacted to prohibit child prostitution and child pornography; the most important ones are briefly described below.

The Criminal Code (1991)

Article 27: the death penalty

18. Except for *hadd* and *qisas* offences, the death penalty shall not be inflicted on anyone below 18 or over 70 years of age.

Article 134: incitement of a minor or insane person

19. Anyone who incites a minor who is mentally impaired or insane or a person who is intoxicated or suffering from mental or psychological trauma to commit suicide shall be liable to a penalty of up to one year's imprisonment. If the suicide is carried out as the result of such incitement, the penalty shall be that prescribed for intentional homicide.

Article 135: abortion

20. Anyone who carries out a criminal abortion shall be deemed to have intentionally aborted the foetus which the woman was carrying, except in the following circumstances:

- (a) If the operation was necessary to save the mother's life;
- (b) If the pregnancy was the result of a criminal rape; if no more than 90 days had elapsed since the rape; and if the woman wanted to have an abortion; or
- (c) If the foetus died in the mother's womb.

21. Anyone who performs an illegal abortion shall be liable to a penalty of from one to three years in prison and/or a fine. This shall be without prejudice to the right to claim blood money (*diyah*).

Article 137: causing foetal death

22. Anyone who performs an act that causes foetal death, a stillbirth or the death of the child after delivery, without the act having been necessary to save the mother's life or protect her from bodily harm, shall be subject to a penalty of up to two years' imprisonment and/or a fine. This shall be without prejudice to the right to claim *diyah*.

Article 149: rape

23. Anyone who forces a person to engage in intercourse or sodomy with him shall be deemed to have committed the offence of rape.

24. The act shall be deemed not to have been consensual, if the perpetrator is a guardian of, or person with power over, the victim.

25. Anyone who commits rape shall be subject to a penalty of 100 lashes of the whip and a term of up to 10 years' imprisonment, unless the rape involves an act of intercourse or sodomy which is punishable by death.

Article 153: indecent material and performances

26. Anyone who makes, reproduces, promotes or distributes indecent material shall be subject to a penalty of up to one month's imprisonment or 40 lashes of the whip. He may also be fined.

Article 156: enticement

27. Anyone who entices, takes away, or assists in the removal or hiring out of a person for the purposes of engaging in the offences of fornication, sodomy, prostitution or acts of depravity or indecency shall be subject to the penalty of up to 100 lashes of the whip or up to five years' imprisonment. If the victim of the enticement is a minor or a person with a mental impairment or if the intention was to commit any of the aforementioned acts outside the Sudan, the penalty shall be up to 100 lashes of the whip and a term of up to seven years' imprisonment.

Article 161: luring away

28. Anyone who lures a minor or a person with a mental impairment away from the care of his legal guardian, without the guardian's consent, shall be subject to a penalty of up to seven years' imprisonment and may also be fined.

Article 163: slave labour

29. Anyone who presses a person into labour by illegally forcing him to work against his will shall be subject to a penalty of up to one year in prison and/or a fine.

The 2004 Children's Act

Article 5: child protection (general principles)

30. In implementing this Act and interpreting the terms contained herein, due regard shall be had to the 1990 Convention on the Rights of the Child and the policies, decisions and guidelines adopted by the National Council for Child Welfare established pursuant to the National Council for Child Welfare Act of 1991. This shall be without prejudice to the following general principles and provisions, which are the basic principles for implementing this Act, namely that:

(a) The State guarantees the welfare and protection of children and creates the right conditions to ensure that they are raised in a manner that is sound from all points of view, in the context of freedom, human dignity and spiritual and social values, and in a healthy environment;

(b) The protection and best interests of the child shall be the primary consideration in all decisions or measures affecting children, the family or the environment, regardless of the agency issuing or implementing them;

(c) This Act shall not prejudice the child's right to enjoy all the rights, public freedoms and forms of protection and care guaranteed to the human person in general and the child in particular by any other law in force, without prejudice to the rules on guardianship of person and property;

(d) The State guarantees children's full legal rights, particularly the right to kinship and the right to life, development, a name, a nationality, care, clothing, housing and management of his affairs in accordance with the law;

(e) The State guarantees children an education, a religious, moral, emotional, civic and spiritual upbringing, academic, physical and cultural instruction and the development of a God-fearing personality in the context of freedom, responsibility and faith. It teaches children about their heritage and gives them a feeling of love for their country, fellow citizens and humanity as a whole, imparting the ideals of goodness, peace, cooperation and diligence and fostering their ability to contribute actively to all areas of development on the basis of equal opportunity;

(f) Parents have the primary responsibility for raising children. The State is responsible for providing whatever appropriate assistance it can offer and ensuring the development of child welfare institutions;

(g) Child suspects are innocent until proved guilty. The purpose of juvenile trials is to provide for the child's social rehabilitation. Children shall not bear any criminal responsibility, so long as they are below 7 years of age, although they may be subject to the welfare measures stipulated in this Act;

(h) Ensuring the development and welfare of the child is a religious, civic, national and humanitarian duty. The natural family is the nucleus of society and the best environment for raising a child. A family providing kifala care shall take the place of the natural family if so required.

Article 28: prohibition of the publication of printed matter and literature

31. It is prohibited to publish, offer, distribute, reproduce or possess any printed matter or audio-visual material that panders to children's basest instincts, projects a positive image of behaviour that offends against society's values or traditions or encourages children to engage in delinquency.

Article 31: child labour

32. Having due regard to the application of this Act, the provisions of the Labour Code of 1997 and its implementing regulations apply to the employment of child workers.

Article 32: non-employment of children in certain unlawful activities

33. It is prohibited to employ children in forced labour, sexual exploitation, pornography, or illegal trafficking, or to use or employ them in armed conflict.

Article 61: principles of sentencing

34. The courts, when handing down sentences, must take account of the following principles:

(a) The measure must be tailored to the child's circumstances and needs, the offence that was committed and the circumstances and needs of the community;

(b) No restrictions may be placed on the child's personal liberty until a full examination of the case has been completed, and provided that restrictions are kept to a minimum;

(c) Children must not be deprived of their liberty, unless they are proved to have committed a violent or a repeat offence and no other appropriate measures can be imposed;

(d) The death penalty may not be imposed on a child;

(e) The child's best interests must be the goal behind the measures imposed.

Article 67: penalties

35. Without prejudice to any higher penalty that may be prescribed in any other law, anyone who violates article 32 shall be subject to a penalty of up to 15 years' imprisonment and a fine to be set by the court.

36. The court shall adjust the fine, depending on the number of children who were the victims of the offence. The penalty is doubled in cases of recidivism.

37. The competent court must set aside part of the fine for the injured party.

The statute of limitations in the 1991 Code of Criminal Procedures

Article 38

38. A criminal case may be brought with respect to offences which carry discretionary penalties if the statute of limitations, beginning on the date of the commission of the offence, has expired. This is:

- (a) Ten years for any offence punishable by death or 10 or more years' imprisonment;
- (b) Five years for any offence punishable by more than one year's imprisonment;
- (c) Two years for any other offence.

The statute of limitations is interrupted as soon as a criminal case is brought.

39. This provision may not help child victims of crimes to bring criminal proceedings themselves after they reach their majority. However, the legislator appears to have taken account of this by leaving greater latitude in the Code of Criminal Procedures for the institution of criminal proceedings. However, the problem with the text is that article 34 (2) gives the guardian of a minor the legal right to institute criminal proceedings.

Article 33

40. A criminal case is brought whenever a policeman or assistant prosecutor learns of, or receives, a formal report or complaint.

Article 34

41. Any law enforcement officer or individual can report an offence.

42. A complaint may be brought by the individual against whom, or in whose area of responsibility, the offence was committed or by someone acting on the individual's behalf. If the victim of the offence is a minor or has a mental impairment, the legal guardian may bring the complaint on his behalf.

Offences not included in the Protocol

43. The Code of Criminal Procedures contains the following offences, which are not included in the Protocol.

Article 23

44. Anyone who orders a person who is immature or lacks discretionary capacity to commit a criminal act or who forces a person to commit such an act shall be held liable for the act, as though he had committed it himself, and shall be subject to the penalty prescribed therefor.

Article 150

45. Anyone who engages in illicit intercourse, sodomy or rape with an ascendant, a descendant or their spouse, or with his brother, sister or their children, or his paternal or maternal uncle or aunt shall be deemed to have committed the offence of incest.

46. Anyone who engages in incest shall be subject to the penalty prescribed for the offence constituted by the act concerned and, except for offences that are punishable by death, shall be subject to an additional penalty of up to five years' imprisonment.

Article 151

47. A person shall be deemed to have committed acts of depravity, if he engages with another person in indecent acts or sexual conduct not constituting illicit intercourse or sodomy. The perpetrator shall be subject to a penalty of 40 lashes of the whip and may face up to one year in prison or a fine.

48. If the indecent offence is committed in a public place or without the victim's consent, the perpetrator shall be punished with up to 80 lashes of the whip and may face up to one year's imprisonment or a fine.

Article 152

49. Anyone in a public place who engages in lewd or indecent acts or conduct, or who wears clothing that is indecent, because it offends public sensitivities shall be subject to a penalty of 40 lashes of the whip and/or a fine.

50. An act shall be deemed indecent, if it is defined as such by the perpetrator's religion or the mores of the country in which it is committed.

Kifala and adoption

The 1971 Children's Welfare Act

51. In order to protect the best interests of children, the Children's Welfare Act puts numerous controls in place with regard to persons qualified to act as a child's guardian. A guardian must undergo a one-year period of probation, during which time the social worker must visit the child regularly. The guardian must comply with welfare regulations relating to the child's relationship with the guardian's family and the child's travel.

Article 11

52. The guardian must have a good personal reputation and must not be below 30 or over 50 years of age. Acceptance of the guardian's application must be endorsed by a social worker or a child welfare association.

53. Unmarried men may not be entrusted with guardianship of children.

Article 13

54. If the competent local authority approves the report referred to in article 10, the child shall spend a one-year probationary period with the guardian. However, the child may not be placed with the guardian if 14 years have elapsed from the date on which the local authority issued its approval.

55. The competent social worker must notify the court when the local authority authorizes the delivery of the child to the guardian to undergo a period of probation.

56. The social worker must visit the child regularly during the year and submit a report on each visit to the competent local authority.

Article 14

57. The guardian must provide the child with humane care and parental love, as if the child were his own. He must provide suitable housing, good clothing, medical care and education.

58. The guardian is entitled to discipline and correct the child's behaviour within reasonable limits.

59. The social worker must visit the child regularly to check on his physical and psychological health and the standard of care that he is receiving and must submit a report on each visit to the competent local authority.

60. If the social worker's reports clearly show that the guardian is failing in his duty towards the child, has become unfit to provide care or has overstepped the limits placed on the right referred to in paragraph (2), the competent local authority may order the child to be sent to a children's home until another suitable guardian can be found.

Article 16

61. The child is regarded as a member of the guardian's family in all respects. Muslim children are not entitled to inherit from, or bequeath property to, the guardian.

62. The preceding paragraph shall not be construed in such a way as to prevent the guardian from leaving the child something as a testamentary gift.

63. If the guardian wishes to keep the child in the family after the age of 21 years, the child may opt to remain with the family or leave, if he or she would rather be independent.

Article 17

64. No child placed in a children's home or with a guardian may leave the Sudan or travel to any part of the country other than his place of residence without the permission of the local authority, in the first case, or a social worker, in the second.

65. The social worker must be informed of any change of the child's place of residence or address.

C. Criminal procedures

1. Legal jurisdiction

66. The 1991 Criminal Code deals with the question of territorial application in three articles (arts. 5-7) which deal with crimes committed wholly or in part in the Sudan, crimes committed abroad and crimes committed by a Sudanese.
67. This Code shall apply to any crime committed wholly or in part in the Sudan.
68. For the purposes of this Act, the definition of the Sudan includes its airspace, territorial waters and all ships and aircraft wherever they may be.

Article 6

69. This Code applies to anyone who commits in the Sudan an act that contributes to an offence committed outside the Sudan and is regarded as an offence both in the Sudan and under the law of the State in which it is committed.
70. No one shall be punished for committing outside the Sudan any offence that is punishable in the Sudan, if the person is shown to have been convicted for it by a competent court outside the Sudan and has served his sentence, or if the person was acquitted by the court.

Article 7

71. Any Sudanese who commits, while abroad, an act that renders him the author of, or an accomplice to, a crime under the terms of this Code, shall be subject to punishment, if that person returns to the Sudan and the act constitutes an offence under the law of the State in which it was committed, unless the person was tried before a competent court outside the Sudan and served his sentence or was acquitted.
72. Extradition of criminals: the Sudan has bilateral agreements with other States on the extradition of criminals which fall within the scope of the provisions of the Protocol. The Sudan is a signatory to the Riyadh Convention on Judicial Cooperation, which covers all Arab States. It also has bilateral treaties with Kenya, Ethiopia and Uganda.
73. Seizure and confiscation of material and assets and closure of premises
74. **Article 153 of the Criminal Code provides as follows:**
1. Anyone who makes, reproduces, possesses or distributes indecent material shall be fined;
 2. Anyone who trades in indecent material or manages a theatre, place of entertainment or any public premises presenting or showing indecent material or who allows such material to be shown therein shall be subject to a flogging of up to 60 lashes and/or a term of up to three years' imprisonment;

3. In all events, the court shall order the destruction of the indecent material and the confiscation of the equipment and articles used to display it. It may also order the closure of the premises.

D. Protecting the rights of child victims

75. The courts' concern for the best interests of the child is clearly expressed in article 74 of the 2004 Children's Act, which refers to trial proceedings. All proceedings are aimed primarily at protecting the best interests of the child, as explicitly stated in paragraphs 2 and 5 of the same article.

76. The 2004 Children's Act expresses concern for child victims. According to article 77 (1) of the Act, a court may ask the competent authority to examine the situation of a child victim who is at risk and devise solutions to address it, identifying the agency with competence for implementation.

77. In imposing measures, the courts must have due regard for a set of principles, notably that the best interests of the child must be the objective behind the measures that they take. This is in keeping with article 78 (e) of the 2004 Children's Act.

78. The courts also have due regard for the best interests and special status of children. Thus, under article 80 of the 2004 Children's Act, information about children appearing in court cannot be disclosed without the court's permission. Under article 83 (1) of the 2004 Children's Act, the best interests of the child are also protected when it comes to the records of juvenile cases.

79. Further confirmation of the care taken to protect the best interests of the child is found in article 84 of the 2004 Children's Act, which exempts children from paying court fees and court expenses.

80. However, the problem with the way that the 2004 Children's Act deals with trial proceedings is that it recognizes only two levels of judicial process. It denies children access to certain stages of proceedings and fails to safeguard their right to apply to the Constitutional Court, if their constitutional rights are violated. Under article 82 (1), juvenile court judgements may be appealed before the appeal court, whose verdicts are final, although the appeal court may review its own decisions.

81. Article 149 of the 1991 Criminal Code states that a person shall be deemed to have committed rape, if he engages in non-consensual intercourse or sodomy with another person. The article further states that the act shall be deemed not to have been consensual, if the perpetrator is an ascendant of, or a person with power over, the victim. Article 3 states that "consent" means acceptance, and consent shall not be deemed to have been given if (a) it comes from a person acting under duress or a mistaken understanding of the situation or (b) the person committing the act knows that consent was given under duress, by mistake, or by a minor. This protects the rights of children, where the offence is committed by a person who is an ascendant of, or a person with power over, the victim.

82. According to article 24 of the Burden of Proof Act of 1993, a person is qualified to testify as a witness, if he or she is mentally capable of understanding the events that he or she witnessed. There is no specific age limit; the person simply needs to be capable of understanding what he or she saw.

E. Sale of children, child pornography and trafficking in human organs

1. Sale of children

83. The offence of selling children is a new offence that is not known in Sudanese society. There have been no cases of this kind, since the Sudanese social heritage and prevailing customs and traditions forbid this practice. It is very difficult to commit this kind of offence in the Sudan. Sudanese law does not mention this offence as a primary offence but rather as an adjunct to other offences such as forgery, deception or enticement. These offences are contained in the Sudanese Criminal Code of 1991 and carry heavy penalties.

2. Pornography

84. This is indecent material and performances as defined in article 153 of the Criminal Code, as well as article 28 of the 2004 Children's Act, which prohibit the publication of printed matter and literature (i.e. they prohibit the publication, offer, distribution, reproduction or possession of any printed matter or audio/visual work of art that panders to children's basest instincts, projects an attractive image of behaviour that contravenes social values or traditions, or encourages juvenile delinquency). Under article 29, control of children's access to performances in cinemas and public premises is the responsibility of the managers and supervisors of such premises, who are responsible for the performances shown and for controlling public access to them.

85. Article 30 of the Children's Act requires managers of cinemas and similar public facilities to use every possible advertising method to display prominently, in Arabic, announcements about performances that children are not permitted to see. Article 67 (d) of the Act states that anyone who breaches articles 28 and 30 of the Act shall be liable to a term of up to one month in prison and/or a fine.

3. Trafficking in human organs

86. The Criminal Code of 1991 makes no mention of what is known as trafficking in human organs and therefore does not criminalize or prescribe penalties for this offence.

87. As for the medical profession, the transplant of human organs in the Sudan is regulated by the Human Organs and Human Tissue Act of 1978. By human tissue, the Act means a part of any organ or body part which is removed from any living or dead person and transplanted to another living person. Although the Act focuses on the removal of organs and tissue from a deceased person, it does refer to the transfer of organs from a living person. Under the Act, the transplant can only be carried out as a gift, under the conditions laid down in the law. The law

defines the donor as a living adult of sound mind who donates an organ or any of his tissue, in an appropriate place, to replace a sick or dysfunctional organ or piece of tissue. The law protects children by stipulating that the donor must be an adult and the gift must be made without material reward.

F. Projects and programmes to protect children from violence

1. Committee to Combat Violence against Children

88. The National Council for Child Welfare set up the Committee to Combat Violence against Children in order to garner support for efforts to combat violence against children and to gather available information about the issue with a view to preparing a comprehensive study on it. A draft national plan to combat all forms of violence was prepared. The committee members include relevant government agencies, a child participation coordinator, and representatives of international and national organizations.

2. Children of unknown parentage

89. The phenomenon of children of unknown parentage is a worrying one. There are few accurate statistics about this phenomenon, which is most prevalent in the province of Khartoum.

90. The State, in cooperation with UNICEF and other voluntary organizations, has launched a non-residential welfare programme for these children (alternative or Kifala families), operating on the premise that the best interests of the child are served by care in the family rather than an institution. The programme has scored notable successes in this regard.

91. In 2005, a total of 205 emergency (temporary) families took part in the programme until permanent families could be found. The province of Khartoum pays these families' expenses, amounting to a total of \$18,000 per month, in addition to providing health, welfare and social services and paying administrative expenses.

3. Child labour

92. The Sudan has signed and ratified International Labour Organization (ILO) Conventions Nos. 138 and 182, concerning child labour and the worst forms of child labour. The competent entity (the Ministry of Labour) amended the laws and regulations to incorporate the provisions of international child labour conventions into the 1997 Labour Code. The Sudan submitted its initial report on the implementation of Conventions Nos. 138 and 182 to the ILO.

93. The National Council for Child Welfare, in cooperation with the Ministry of Labour, the University of Khartoum and a Swedish child welfare organization, conducted a survey on child labour based on sampling carried out in the states of Kassala and Khartoum. The purpose was to study the factors behind child labour, and draw up basic indicators in preparation for a comprehensive, in-depth study of the phenomenon in the Sudan.

4. Project on combating the exploitation of children in camel racing

94. The National Council for Child Welfare set up a committee to combat the exploitation of children in camel racing. The committee members include government institutions of concern and some civil society organizations. As part of its plans, the committee:

- Demanded the enactment of laws and regulations and the introduction of tighter controls on children travelling abroad;
- Organized awareness-raising workshops in several states on the employment of children in this work, which violates their rights;
- Involved local community leaders and families in community awareness-raising programmes about these practices.

95. The following legal measures were taken to address the problem of children travelling abroad:

- The Ministry of the Interior (a member of the committee to combat exploitation of children in camel racing) issued a number of regulations and rules on children travelling abroad. Article 6 of the second amendment of 1995 to the 1994 Regulation on Passports and Immigration states as follows:
 1. A child may be added to his father's or mother's passport;
 2. Notwithstanding paragraph 1, the child's name may not be added in the following circumstances:
 - (a) If the child's parents are naturalized Sudanese, unless the child's name has been added to the father's or mother's citizenship certificate, or the parents acquired Sudanese nationality before the child was born;
 - (b) If the child is born to a foreign or stateless father, he cannot be added to the mother's passport, unless she is Sudanese by birth;
 - (c) If the child is a boy from a pastoral tribe, he may not be added to his father's passport without authorization from the competent authorities.

96. The regulation states that an application to add a child to a passport must be submitted in writing, together with the following:

- (a) Three photographs of the child;
- (b) A copy of the child's birth certificate;
- (c) A copy of the marriage certificate or divorce paper;
- (d) The consent of the child's father, who must either attend in person or submit a legally sworn statement of consent.

Decisions, instructions and orders issued by the Ministry of the Interior and the General Passports Department

97. The General Passports and Immigration Department has issued numerous instructions and orders to regulate the addition of children to passports, including: Standing Order No. 13 of 2000, article 2, (r) of which deals with applications to include children in passports. Regardless of whether the passport is the mother's or father's, the competent authority must follow the procedure described here below:

1. It must check the child's birth certificate as certified by the Department of Statistics and enclose a copy. It must not accept an estimation of age certificate in these cases, unless it is supported by a legal attestation issued by a court proving the child's parentage;
2. Children to be added to passports must appear in person, especially if they are aged between 7 and 14 years and if the applicant is from a tribe known to participate in camel racing. The applicant and his children must be questioned individually in order to verify that the children are indeed his offspring.

Children's travel under immigration laws and regulations

Exit visas

98. The General Passports Department issues the following types of visa: visitor's visas, one-off work visas, visas for returning expatriates, family stay visas, visas for persons intending to get married, student visas, and multiple entry (open) visas.

99. Article 12 of the 1994 Passports and Immigration Act states as follows:

1. Anyone leaving the Sudan must first obtain a valid exit visa;
2. The regulations, procedures and rules control the issuance of exit visas and their period of validity both for Sudanese and foreigners;
3. No exit visa shall be issued to:
 - A Sudanese accused of a criminal offence;
 - A Sudanese who is reasonably suspected of involvement in activities that are hostile to the Sudan or in any way damaging to its good name;
 - A child below 18 years of age, unless with the approval of the legal guardian (National Council Decision No. 59 of 3 May 1994, approving Decree No. 7 of 1993).

Decisions, directives and orders issued by the Ministry of the Interior and the General Passports Department

100. In order to eradicate the phenomenon of children travelling abroad to take up employment, the Ministry of the Interior and the General Department of Passports and Immigration have issued several directives and standing orders, of which we should like to mention the following:

(a) Instruction dated 8 April 2004 from the Minister for Internal Affairs stating that children's travel must be carried out in accordance with the laws and regulations in force and that children must be prevented from travelling to take up work in camel racing;

(b) Standing Order No. 54 of 1999, concerning the rules on adding children to passports and travel of children abroad, including the conduct of thorough checks to ensure that persons accompanying children are indeed their parents, especially if the children are aged 12 years or below, and checks on persons departing from the Sudan who come either from countries known to employ these kinds of children or from States through which transit may be effected;

(c) Directive No. 20 of 2000 prohibiting boys from travelling abroad for any type of work, whatever the reason or motive, especially boys from pastoral tribes with members who work as camel herders. Fathers whose sons have been added to their passport are not allowed to have an exit visa in their passport. They must travel alone so as to prevent them from trying to get round the rules;

(d) Standing Order No. 15 of 2000, issued by the Director of the General Passports and Immigration Department and concerning the rules restricting children's travel, includes the following stipulations:

- The situation of children from tribes known to be involved in camel racing in the Emirates must be investigated and assistance must be sought from tribal sheikhs and leaders to verify information;
- Children, especially those below 16 years of age, must be accompanied by a parent and the birth certificate must be checked against the child's general appearance. An authenticated copy of the birth certificate must be put on file;
- New passports to which children are added shall not be issued unless the applicant appears in person before the authorizing agency in order to avoid any deception or forgery of the birth certificate or estimation of age certificate and to compare copies with the originals of these certificates, together with the signature of the authorizing official on the signed copy in the file. The words "Authenticated copy" must be written on it;
- These rules are observed at crossing points and efforts are made to prevent children from being smuggled through other States to the Emirates in order to participate in camel racing.

101. A family protection department is being set up at the Ministry of the Interior for the purpose of:

- Preserving family cohesion;
- Disseminating ideas and raising social awareness by all methods;
- Helping to strengthen the social fabric of society;
- Helping to instil the values of compassion, love, solidarity and respect among family members;
- Establishing a database to monitor, follow up on, study and analyse family issues and problems with a focus on new phenomena;
- Making sure that family problems are dealt with confidentially;
- Combating physical abuse and all forms of violence among family members;
- Preserving the values of kindness, courtesy and correct behaviour.

102. The department is made up of several offices (social research-medical examinations-information and statistics-psychology-complaints and investigations-information and communications).

103. The department's functions include:

- Receiving complaints and information about physical and mental abuse in the family and about sexual abuse of family members, whatever the victim's age may be;
- Dealing with the psychosocial impact of sexual and physical abuse, using educational and medical techniques;
- Liaising and working with relevant agencies;
- Providing consultancy and advice to family members about the department's work;
- Implementing laws and regulations in the 1991 Criminal Code, as they relate to families and their members, as well as the 2004 Children's Act. The department has procedures and guidelines to follow when it receives complaints or information about physical or sexual abuse that lead to the arrest of the offender and the institution of judicial proceedings or imposition of social welfare or administrative measures, as the case may be.

104. The organizational structure consists of several offices, namely:

1. The complaints and investigation office;
2. The medical examinations office;

3. The social research office;
4. The psychology office;
5. The information and communications office;
6. The information and statistics office.

G. International assistance and cooperation

105. In order to eliminate the scourge of poverty, development projects in cooperation with the United Nations Development Programme have been set up in selected areas to build human and educational capacities, protect the environment, and achieve sustainability. The programme caters for 600,000 beneficiaries, representing around 2 per cent of the population of the selected areas, and implementation costs \$46,393,998.

106. The solar energy project for rural development is designed to remove the obstacles to the commercial use of solar panels in semi-urban areas and the states of the Sudan by providing various systems for lighting schools, and powering of serum and medicine refrigerators, water pumps, mosques, and rural clubs. The solar energy project draws on credit provided in cooperation with the Savings and Social Development Bank and the Agricultural Bank. Implementation of the project has cost 88,453,934 Sudanese dinars.

107. The United Nations Population Fund (2002-2006) finances activities involving population development, the development of human resources and reproductive health projects, providing 80 per cent of the \$13.5 million allocated to help reduce maternal mortality rates and improve health conditions. The states of Greater Darfur received a subsidy of 1.4 million dinars. A further \$5 million was provided to conduct a census in 2007 costing a total of 75 million dinars. The census is expected to provide essential information about poverty and poverty indicators.

108. UNICEF (2002-2006) runs programmes in areas such as health and nutrition, water and environmental remediation, education and child protection. The implementing agencies are the Ministry of Health, the National Water Board and the Ministry of Education. The health and nutrition programme was allocated \$7.7 million, the water and environmental remediation programme received \$3.9 million and the education and child protection programme was allocated \$3.9 million.

109. Under the World Food Programme (WFP) "Food-for-Work" project, 2005, a total of 53 rainwater reservoirs in the northern states and West Darfur were rehabilitated, 11 new reservoirs were constructed and 38 hand-pump wells were built. The number of beneficiaries amounted to 10,014 and the amount of donated food was 2,050,026 metric tonnes.

110. The WFP school nutrition programme offers a meal to primary school students to encourage school attendance in areas suffering from food shortages, including the states of Greater Kordofan, Darfur and the Red Sea. The project is carried out through the Ministry of Education.

111. A memorandum of understanding was signed between the National Council for Child Welfare and Qatar on children working in camel racing in Qatar. The memorandum provides for the formulation of plans and joint programmes to protect these children and ensure their psychosocial integration by:

- Removing Sudanese children from camel racing and offering them adequate protection in conformity with appropriate international standards;
- Supporting and helping children removed from this activity; and
- Enacting laws and regulations to prevent children from leaving the country.

112. A field survey of children returning from Qatar was conducted to provide help and support in this area.

113. Plan of action drawn up by the National Council for Child Welfare and UNICEF to protect and reintegrate children involved in camel racing in the United Arab Emirates.

114. The secretariat of the National Council for Child Welfare signed a memorandum of understanding with UNICEF on a plan of action for the protection and reintegration of children participating in camel racing in the United Arab Emirates. The project is designed to guarantee the return and reintegration of around 300 Sudanese children involved in camel racing in the United Arab Emirates. The best interests of the child are the primary consideration in every stage of the project.

115. The project is to be implemented from January 2006 until December 2007 and will offer services to returning children, including health and social welfare, family reintegration, follow-up and all forms of assistance. The project also includes awareness campaigns for communities and families and measures to improve the legal framework for child protection by ensuring the implementation of laws at both the national and state levels.
